

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

PRONGHORN DEVELOPMENT, Ltd.,)
a Wyoming Limited Liability Company,)

Plaintiff,)

v.)

No. 03-3004-CV-S-ODS

THE NATIONAL AUCTION GROUP,)
INC.,)

Defendant.)

ORDER (1) DENYING PLAINTIFF'S MOTION TO RECONSIDER,
(2) DIRECTING THE PARTIES TO MEET AND CONFER, AND
(3) DIRECTING PARTIES TO FILE STATUS REPORTS

Pending is Plaintiff's Motion to Reconsider or Modify the Court's Order Compelling Arbitration (Doc. # 26). Plaintiff contends that because this matter should have been resolved by now through arbitration, the Court should either (1) appoint an arbitrator and set forth the rules, or (2) place the case back on the court's trial docket. According to the arbitration clause agreed to by the parties, they should adhere to the following procedure:

Within thirty (30) days of written notice that there is such a dispute, authorized representatives of the undersigned and "NAG" shall meet at a mutually acceptable time and place, in a good faith effort to reach an amicable resolution. Either party may require that a mutually agreeable neutral arbitrator be employed to assist in resolution of the dispute. If the parties cannot agree on the selection of a neutral arbitrator within the thirty (30) day time period stated above, each party shall then select one arbitrator and then within a reasonable time those two selected persons will choose a third arbitrator. This panel of three arbitrators will then work to resolve the dispute pursuant to the terms set out herein this Agreement to Arbitrate.

Ex. A to Doc. # 2. The parties have not followed this procedure; however, that is not a reason, at this time, for granting Plaintiff's motion.

Instead, the parties are directed to meet and confer within ten (10) days of this Order to begin the process of selecting a neutral arbitrator. In addition, the parties shall file a joint status report with the Court on or before May 21, 2004, and every sixty (60) days thereafter.

IT IS SO ORDERED.

DATE: April 21, 2004

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT